

No. 4571-4 Lab-74/17816.—In pursuance of the provisions of Section 17 of the Industries Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Kalkaji Compressor Works, Faridabad.

**BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK**

Reference No. 25 of 1971

Between

**SHRI BABU KHAN AND THE MANAGEMENT OF KALKAJI COMPRESSOR WORKS,
MATHURA ROAD, FARIDABAD**

Present :-

Shri H. R. Dua for the workman.

Dr. Anand Parkash for the management.

AWARD

Shri Babu Khan concerned workman was in the service of M/s Kalkaji Compressor Works, Mathura Road, Faridabad as an Assistant Fitter. He had proceeded on leave for one month from 20th July, 1965 to 19th August, 1965 to meet his relations in Pakistan which was duly sanctioned by the management. He did not however, report for duty till 1st December, 1965 when his name was struck off the rolls. He allegedly came to the factory on 2nd December 1965 and explained that he could not come earlier due to illness and the war between Pakistan and India and asked for leave to join his duty which was refused by the management. This gave rise to an industrial dispute which was referred for adjudication to this court by the Governor of Haryana vide order No. ID/FD/105-E/8265-69 dated 19th February, 1971, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

Whether the termination of services of Shri Babu Khan was justified and in order ? If not, to what relief is he entitled?"

On receipt of the order of reference, usual notices were given to the parties and they were called upon to put in their pleadings. The management contended that after the expiry of the aforesaid leave for one month no further application for extension of the leave was received from this workman and when he did not report for duty continuously for a period of more than 3 months, he was deemed to have left the service in accordance with the Certified Standing Orders of the company and his name was, therefore, struck off the rolls on 1st December, 1965. The workman on the other hand, pleaded that he had, infact, sent an application for the extension of his leave from 18th August, 1965 to 9th September, 1965 supported with the medical certificate and since in the meantime the war had broken out, all the means of transport and communications had stopped and he could not come before the end of November, 1965 and the management had wrongly struck off his name from the rolls without any justification. My learned predecessor framed the following two issues from the above pleadings of the parties.

1. Whether the applicant was absent without intimation or getting any extension for leave and thus lost his lien on his appointment in accordance with the terms of the Certified Standing Orders ?
2. If issue No. 1 is not proved, whether the termination of services of Shri Babu Khan was justified and in order ? If not, to what relief is he entitled ?

The management has examined Shri K. N. Gulati, Deputy Works Manager M.W. 1, who has proved 9 documents including the Certified Standing Orders of the company Exhibit M. 1, leave application of the workman sanctioning his leave from 20th July, 1965 to 19th August, 1965 Exhibit M. 2, letter dated 25th November, 1965 sent to him under registered post asking him to report for duty within 5 days of the issue of the letter Exhibit M. 3, notice dated 1st December, 1965 intimating him that he had lost the lien on the job by over staying his leave Exhibit M. 4, A. D. receipt Exhibit M. 6, postal receipt Exhibit M. 6, certificate of posting Exhibit M. 7, postal receipt Exhibit M. 8, and another certificate of posting Exhibit M. 9. He has denied the suggestion specifically put to him that his name had been struck off the rolls after he had reported for duty on 2nd December, 1965.

Shri Babu Khan besides himself coming into the witness box as W.W. 6 has examined 5 witnesses namely Shri Attar Singh Sarpanch of village Gordhan Pur, District Bullandshahar W.W. 1, his father Shri Nathu Khan W.W. 2, Shri S. K. Bhatia, Sub Post Master W.W. 3, Shri Hira Lal Clerk of the management W.W. 4 and Shri Kanwar Chand Branch Post Master, Amar Nagar W.W. 5. The documents brought on record by the workman include the letter dated 13th September, 1965 written by the Sarpanch Exhibit W.W. 2/1, certificate of posting Exhibit W.W. 2/2, a slip issued by the Post Officer Exhibit W.W. 6/1 and registered cover Exhibit W.W. 6/2.

The case has been well argued on both sides and I have given a thoughtful consideration to the material on record. It is a common ground between the parties that this workman had proceeded on leave from 20th July, 1965 to 19th August, 1965 which had been duly sanctioned by the management, to enable him to go to Pakistan to meet his relatives there. According to him he was taken ill and had sent the leave application seeking extension of his leave till 9th September, 1965 under a registered cover A. D. This fact is denied by the management and in the records there is no mention of the receipt of any such leave application as stated by W. W. 4 Shri Hira Lal, Clerk summoned as a witness by the workman himself. No copy of the said application has been filed nor any postal receipt. The medical certificate Exhibit W. W. 6/1 on which reliance has been placed by the workman was admittedly obtained by him after his return from Pakistan towards the end of November, 1965. This certificate is of 9th May, 1967.

The workman has further relied upon the testimony of Shri Attar Singh Sarpanch W. W. 2, and his father Shri Nathu Khan W. W. 3 and also on the slip Exhibit W. W. 5/1 said to have been obtained from the Sub Post Office, Amar Nagar. The statements of W. W. 2 and W. W. 3 as also the letter Exhibit W. W. 2/2 written by the Sarpanch which is not admitted by the management do not in any way advance the case of the workman to justify his absence from duty for such a long period. There is no proof that the letter Exhibit W. W. 2/2 was really submitted to the management. The Postal slip Exhibit W. W. 5/1 does not contain any particulars of the registered letter said to have been despatched by the workman containing his application for the extension of leave. All that, it shows is that one R. L. No. 21 (Registered letter No. 21) had been despatched from Pakistan to the Manager K. C. Khosla, Mathura Road, Faridabad and delivered on 31st August, 1965. This slip is of 24th November, 1967. It does not show who was the sender of the said registered letter. The original entry in the registers of the Post Office of 31st August, 1965 might have thrown some light on the point in issue, but that record is not forthcoming. This slip as such is meaningless and of no value. The workman has also produced an empty registered cover Exhibit W. W. 6/2 which he says had been purchased by him for despatching to the management but the same was refused by the postal authorities in Pakistan on account of the discontinuance of means of transport and communications due to the war of 1965. There is no endorsement on this cover of any postal Authority. The workman might have purchased it for any purpose. This does not in any way help him.

The Certified Standing Orders of the Company Exhibit M. 1, on record which clear on the point. Order 7 (c) provides as under:

"If a workman remains absent beyond the period of leave originally granted or subsequently extended, he shall be liable to lose his lien on the appointment he holds unless (i) he reports for duty within 8 days of the expiry of the leave and (ii) gives an explanation to the satisfaction of the factory manager of his inability to return to work on the expiry of leave granted or extended, as the case may be. Till such time the explanation of the worker has been accepted, he will be treated as absent on leave without pay. Such explanation shall be decided within a week of its receipt."

In view of the above specific provision in the Certified Standing Orders of the Company, which form part of the contract of his service and by which he is governed, he was clearly absent from duty for 103 days before his name was struck off the rolls. During this period no leave application with or without medical certificate is proved to have been received by the management. According to his own showing he had applied for leave till 9th September, 1965. There is no doubt that the war had broken out between Pakistan and India in the meantime but no evidence has been brought on record to show that he was not able to come back on 1st December, 1965 till when the management had waited for him. It was for him to explain the cause of his absence from duty for each and every day which he has simply failed to prove. He could have written to the management through the Authorities in Pakistan explaining his inability to report for duty on the expiry of the leave sanctioned till 19th August, 1965. No value can be attached to the medical certificate Exhibit W. W. 6/1 which was received by him two years later in 1967. The certificate being of 9th May, 1967. This certificate even does not show that he was suffering from any serious illness. It only says that he had acute pain in the abdomen and frequency of stools. It can not, therefore, be held that this workman was really suffering from any serious illness which did not permit him to come back to India to report for duty on the expiry of the leave sanctioned by the management. All this seems to be a made up affair. He was actually not ill nor had he sent any application for the extension of his leave. The war between the two countries had broken out more than a fortnight after the expiry of his leave. He could very well have managed to return to India during this period and ought to have reported for duty on the very next day of the expiry of his leave on 19th August, 1965. However, for reasons better known to him, he did not do so and had, therefore, to suffer the consequences of his own act of carelessness in not reporting for duty on the due date. Issue No. 1 is accordingly decided against him and in favour of the management.

In view of my above finding on issue No. 1 that the workman remained absent from duty for a considerable period of as many as 103 days without proper authorisation, he was deemed to have left the job himself, resulting into loss of lien on the post held by him and the management had no alternative but to strike his name of the rolls especially when no satisfactory explanation was forthcoming to justify this long absence from duty. The learned representative of the workman has not been able to satisfy me to the contrary. The issue No. 2 is also decided against the workman and in favour of the management.

On the above findings on the issues involved in the case and for the reasons aforesaid, the workman is not entitled to any relief by way of rein statement or payment of back wages. The award is made accordingly. There shall, however, be no order as to costs.

Dated 8th May, 1965.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 145 Dated the 17th May, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 4576-4Lab-74/17820.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Belmont Rubber Industries, Faridabad.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 185 of 1972

between

**SHRIMATI SHEELA AND THE MANAGEMENT OF M/S BELMONT RUBBER INDUSTRIES,
INDUSTRIAL AREA, FARIDABAD.**

Present

Shri Roshan Lal Sharma, for the worker.

Shri R. C. Sharma, for the management.

AWARD

Shrimati Sheela worker concerned was in the employment of M/s Belmont Rubber Industries Area, Faridabad as a Helper at Rs. 90/- P.M. The management allegedly terminated her services with effect from 6th March, 1972 feeling aggrieved she raised a dispute which was referred for adjudication to this court.—vide order No. ID/FD/72/21957-561, dated 20th June, 1972 of the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, with the following term of reference.

“Whether the termination of services of Shrimati Sheela was justified and in order ? If not, to what relief she is entitled ?”

On receipt of the order of reference usual notices were given to the parties and they put-in their pleadings. According to the management this worker had in-fact tendered her resignation on 14th April, 1972 and collected her dues on 7th May, 1972, after resignation had been accepted. Shrimati Sheela refuted the above allegations made on behalf of the management. The following 2 issues arose for determination from the pleadings of the parties.

- (1) Whether Shrimati Sheela concerned workman submitted her resignation and received Rs. 398.12 from the management in full and final settlement of her entire claims against the management and settled the dispute as pleaded by the management ?
- (2) If issue No. 1 is decided in favour of the workman whether the termination of services of Shrimati Sheela was justified and in order ? If not, to what relief is she entitled ?

The management has examined 3 witnesses including Shri S. S. Gulati, Partner, Shri Mohinder Loothra Manager and Shri Lal Bahadur Chowkdar. The documentary evidence relied upon by the management consists of the said resignation of the worker dated 14th April, 1972 Exhibit M-1, payment voucher of Rs. 398/12 Exhibit M. 2, copy of supporting voucher Exhibit M-3, copy of the entry in the ledger Exhibit M. 4, letters written to the worker Exhibits M. 5 to M. 10, her letter of appointment dated 1st October, 1970 Exhibit M. 11, A. D. receipt Exhibit M. 12, leave applications Exhibit 14 to M. 22.

On the other hand, Shrimati Sheela concerned worker has made her own statement. She has not admitted that she had submitted the resignation or received her dues. She has admitted her signatures on the demand notice and the letter of authority Exhibit W. 1, but denied the same on certain documents including the letter of her own appointment Exhibit M. 11.

Arguments have been heard on both sides and I have given a careful consideration to the material on record. There was a suggestion for an amicable settlement outside the court for which the parties had obtained adjournments which, however, did not materialised, arguments were, therefore, heard again.

After a careful Scrutiny of the various documents on record including the resignation of the worker and the payment voucher read with the testimony of the 3 witnesses examined on behalf of the management. I am satisfied that the resignation Exhibit M. 11 does bear the signatures of this worker as also the payment voucher Exhibit 2 by means of which a sum of Rs. 398/12 was paid to her after about 3 days of the submission of the letter of resignation. There is an important fact on record which deserve special consideration here. The resignation Exhibit M. 11 is endorsed by Shri Krishan Lal Sharma, Secretary, General Engineering Mazdoor Union, Registered, Faridabad. The worker could not have the courage to produce Shri Krishan Lal Sharma as a witness in the case and deny the fact that the resignation was not made in his presence or endorsed by him. He was an important witness and the withholding of this witness gives rise to the presumption that if examined he would not have supported the worker. It is not believable that the management could get his endorsement on the resignation without the consent of the worker herself or that management would go to the extent of not only forging the signatures of the worker but also the writing of this Union Leader. I have myself examined the disputed signatures on the resignation and the payment voucher and compared the same with the signatures of the worker on various other documents referred to above, some of which are admitted by her, and find that they are of one and the same person. Strangely enough she has denied her signatures even on her own letter of appointment. In the circumstances, it is not safe to rely upon her deposition and taking into consideration the facts the case discussed above, the plea of resignation and payment of the dues of the worker raised on behalf of the management must prevail. Issue No. 1 is accordingly decided in favour of the management and against the worker.

In view of my above findings on issue No. 1, issue No. 2 does not arise for determination for the simple and obvious reason that it being a case of voluntary resignation by the worker and the collection of the dues by her, the question of the termination of her services by the management does not arise. The issue is held accordingly.

On the above findings on the issues involved in the case and for the reasons aforesaid, the worker is not entitled to any relief by way of reinstatement or payment of back wages. The award is made accordingly but without any order as to costs.

Dated the 7th May, 1974.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1117, dated the 17th May, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Department, Chailigh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 4575-4 Lab-74/17823.—In pursuance of the provisions of Section 17 of the Industrial Dispute's Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour, Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s Modi Textile Trading Corporation Ltd., Rai (Sonepat).

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 229 of 1971

between

Shri Kartar Singh and the management of M/s Modi Textile Trading Corporation Ltd., Rai (Sonepat).

Present.—

Shri M.S. Rath for the workmen.
Shri Surinder Kaushal for the management.

AWARD

This judgment will dispose of this and the connected references Nos. 234, 236 and 245 of 1971 arising out of the termination of the services of S/Shri Kartar Singh, Balwan Singh, Om Parkash and Hira Singh workers of M/s Modi Textile Trading Corporation Ltd., Rai (Sonepat) which stand consolidated, there being common questions of law and fact involved in all the cases. The facts relevant for the judgment may shortly be stated as under :

S/Shri Kartar Singh, Balwan Singh, Om Parkash and Hira Singh were in the service of M/s Modi Textile Trading Corporation Ltd., Rai (Sonepat) in different capacities. The management allegedly terminated their services with effect from 5th August, 1971, 12th May, 1971, 5th August, 1971 and 19th August, 1971 respectively without any notice or charge-sheet. Feeling aggrieved, they raised disputes by means of separate demand notices, whereupon conciliation proceedings were initiated, which however, ended in failure. On receipt of the failure report from the Conciliation Officer the Governor of Haryana referred each dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947, the term of reference being common in all the cases, i.e.

"Whether the termination of services of the workman concerned was justified and in order ? If not to what relief is he entitled ?"

The parties in each case were called upon to put-in their pleadings. The workmen concerned reiterated their demand for reinstatement and payment of back wages as earlier raised through the demand notices forming part of the references. On the other hand, the management took the plea that these workmen had infact abandoned service of their own accord by remaining absent from duty without any proper authorisation for more than 8 days which resulted into the loss of the lien held by them on their posts in accordance with the certified Standing Orders of the Company.

From the pleadings of the parties, the following two issues arose for determination which are common in all the cases.

1. Whether the applicant was absent from duty with effect from 1st August, 1971 continuously without any intimation or permission and was accordingly deemed to have left service in accordance with the Certified Standing Orders of the Company ?
2. If the above issue is not proved, whether the termination of the services of the workman concerned was justified and in order ? If not to what relief is he entitled ?

The management has examined one witness Shri A.P. Modi Chief Administrative Officer and brought on record the relevant attendance registers and copies of the letters written to these workmen Exhibits M. 1 to M.4 and a copy of the Certified Standing Orders of the Company Exhibit M.5.

The workmen concerned have made their own statements and relied upon as many as 20 doc. in. including demand notice, complaints made to the Labour Officer, A.D. receipts and attendance cards etc.

Arguments have been heard on both sides. Written arguments have also been filed by the authorised representatives of the parties.

I have given a very thoughtful consideration to the material on record. The first and the foremost question that arises for consideration in all these cases is whether the workmen concerned had absented themselves from duty without any proper authorisation and as such were deemed to have left service in accordance with the Certified Standing Orders of the Company. The management has brought on record the attendance registers wherein they have been shown as being absent from duty on the relevant dates. It is nowhere the case of the workmen that they had obtained leave for these days on grounds of illness or otherwise. Their case as made out from their statements is that the management had wrongly marked them absent on the said dates and according to the practice prevailing in the establishment, no regular attendance registers were maintained and the workers were marked absent or present as and when it suited the convenience of the management. This plea, however, is conspicuous by its absence in the demand notices giving rise to the present references. In the absence of a specific plea having been raised by the workmen on this point in the demand notice or any statements of claim no reliance can safely be placed upon their vague assertions made in their statements. No attempt has been made to establish conclusively that the relevant entries in the attendance registers are false and fabricated. The learned representative of the workmen has contended that these entries are over-written and in different inks. But in the absence of any satisfactory evidence of any documentary expert or otherwise, this contention by itself carries no weight.

There is another aspect of the case. No allegations of malafides victimisation or unfair labour practice have been made in the demand notices giving rise to the present references nor by filing any claim statements or rejoinders to the written statements of the management. It does not, therefore, sound to reason that the management would go to the extent of terminating the services of these workmen without any rhyme and reason. In the circumstances, the statement of Shri A.P. Modi, Chief Administrative Officer read with the relevant entries in the

due to their un-authorised absence from duty has to be believed. A perusal of the relevant clause 7(H) of the Certified Standing Orders of the Company which form the contract of service of the workmen concerned. They were deemed to have left the service in the concern by having remained absent from duty without any leave or proper authorisation for more than 8 days as made out from the record. The learned representative of the workmen has not been able to satisfy me to the contrary.

For the reasons aforesaid issue No. 1 is decided in favour of the management and against the workmen holding that the workmen concerned having remained absent from duty for more than 8 days without any proper authorisation were deemed to have left service of their own accord and this act of theirs had resulted into the loss of lien on the posts held by them.

In view of the above, issue No. 2 does not arise for consideration for the simple and obvious reasons that the management had not terminated their services by way of punishment or otherwise, rather their services had stood terminated automatically due to their absence from duty, without proper authorisation, in accordance with the Certified Standing Orders of the Company referred to above which governed the condition of their service. The issue is accordingly held.

In view of the facts discussed above and for the reasons given, the workmen concerned are not entitled to any relief by way of reinstatement or payment of back wages. The award in each case is made accordingly. There shall, however, be no order as to costs.

The 7th May, 1974.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1118, dated 17th May, 1974.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O.P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 4572-4 Lab-74/17825.—In pursuance of the provisions of Section 17 of the Industries Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Kay Iron Works (P) Ltd., Yamunanagar.

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARNANA, ROHTAK

Reference No. 32 of 1971

between

SHRI JAGDISH RAI AND THE MANAGEMENT OF M/S KAY IRON WORKS (P) LTD.,
YAMUNA NAGAR.

Present:

Shri Raghbir Singh, for the workman.
Shri R.L. Gupta, for the management.

AWARD

Shri Jagdish Rai concerned workman was in the service of M/s Kay Iron Works (P) Ltd., Yamuna Nagar as a Turner at Rs 130 per mensem having joined the service on 3rd March, 1970. The management terminated his services with effect from 17th August, 1970. Feeling aggrieved, he raised a demand for reinstatement contending that he was a permanent employee and the termination of his services without any notice or charge-sheet was illegal and un-justified and he was, therefore, entitled to reinstatement with continuity of previous service and payment of back dues. The management did not accede to his request. This gave rise to an industrial dispute. The matter was taken up for conciliation which ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the above dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947,—vide order No. ID/8216-20, dtated 19th February, 1971, with the following term of reference.

"Whether the termination of services of Shri Jagdish Rai was justified and in order? If not, to what relief is he entitled?"

The parties were called upon to file their respective pleadings which they did. The workman reiterated his claim as earlier raised through the demand notice, dated 31st August, 1970 which forms part of the present reference. The management, on the other hand, contested his claim on the ground that he was engaged only temporarily for the specified period of six months and had, therefore, no permanent lien on the past. It was further pleaded that since his services were no longer required, the same were terminated under intimation to him.

From the pleadings of the parties the issue that arose for determination was precisely the same as per the term of reference stated above.

The management has examined four witnesses including Shri Bhupinder Parkash Keshav, Assistant Factory Manager M.W. 1, Shri Ram Avtar, Manager M.W. 2, Shri Siri Ram, Filter M.W. 3 and Shri Rattan Lal Aggarwal, Handwriting Expert M.W. 4. The documentary evidence relied upon by the management consists of the application for appointment made by this workman Exhibit M.W. 1/1, prescribed application form filled up by the workman Exhibit M.W. 1/2, letter of appointment copy Exhibit M.W. 1/3, charge-sheet given to the workman Exhibit M.W. 2/1, his explanation to the charge-sheet Exhibit M.W. 2/2, letter written to the workman after the expiry of the period of six months of his service Exhibit M.W. 2/3, A.D. receipt Exhibit M.W. 2/4, another letter written to him asking for the reason of his absence from duty Exhibit M.W. 2/5 and letter written to the Conciliation Officer Exhibit M.W. 2/6.

The workman has examined one witness, namely, Shri Sumer Chand, son of Shri Ram Sarup a worker in the concern besides making his own statement. He has not relied upon any documentary evidence.

Arguments have been addressed on both sides. Written arguments have also been filed by the learned representative of the parties. I have given a very thoughtful consideration to the material on record and the contentions raised in the case on behalf of the parties.

As would be clear from the facts stated above, the case for workman is that he was a permanent employee and the management had terminated his services without any rhyme or reason. On the other hand, the management has pleaded that he was appointed for the specified period of six months and his services were, therefore, rightly terminated and it being a case of termination of services simpliciter, he is not competent to challenge the impugned order of termination of his services.

The contention raised on behalf of the management appears to be well founded and is borne out from the facts on record. This workman had submitted his application for appointment on 26th February, 1970 which is Exhibit M.W. 1/1 on record. The appointing authority had passed an order on this application that he be appointed for a period of six months on Rs 130 per mensem. The letter of appointment which was issued to him is Exhibit M.W. 1/3 on record. In this letter also it has been mentioned in clear and unambiguous words that his appointment was for temporary for a period of six months and would stand automatically terminated on the expiry of the said period. This letter has also his application for appointment bear the signatures of the workman. His signatures also appear on the prescribed form of application for appointment Exhibit M.W. 1/2 which contains the general conditions of service. Strongly enough, he has denied his signatures on this application as well as on the letter of appointment Exhibit M.W. 1/3, but the same had been duly proved by the statement of the Documents Expert Shri Rattan Lal Aggarwal M.W. 4 who has examined the disputed signatures with the admitted signatures of the workman with the help of photographic enlargement. Nothing worth consideration has been stated with the regard to the testimony of this witness. Otherwise also the signatures on the disputed document do appear to be that of the present workman.

So, from the testimony of M.Ws. 1, 2 and 3 examined by the management read with the other documents referred to above. I have no doubt whatever in concluding that this workman was appointed only for the specified period of six months and on the clear condition that his services would automatically stand terminated after the expiry of the said period. His claim that he was appointed on permanent basis is wholly wrong and not based on fact.

It is necessary to consider here that he had been given a charge-sheet Exhibit M.W. 2/1 that he was careless and negligent in the performance of his duties and had intentionally caused a defect in some machine to which he submitted his explanation showing his regret and, therefore, no action was taken in the matter. This charge-sheet has, therefore, no relevancy to determine the question whether the termination of services of this workman was justified or not.

As already discussed above in details, the appointment of this workman was for the specified period of six months starting from 3rd March, 1970 and ending on 2nd September, 1970. The management was not apparently not satisfied with his work and in its haste to dispense with his services, the order of the termination was passed 16 days before the expiry of the period of six months for which he had been appointed. That fact also would not render the order to be illegal or unjustified. At the most it could be given effect to from 2nd September, 1970 when his services had to come to an end in the terms of the very letter of his appointment and he can be allowed wages for this period. The order passed by the management is not liable to be set aside as a whole, especially when no stigma has been attached to him nor has it been passed by way of punishment. It is only an order of termination simpliciter within the terms of his appointment and as such he has made out no case for reinstatement.

For the reasons aforesaid, the issue is decided in favour of the management and against the workman holding that the termination of the services of the workman is justified and in order but since the termination order had been passed 16 days before the expiry of the specified period of six months for which he had been appointed, he is entitled to his wages for this period of 16 days and no other relief. The award is made accordingly. In the circumstances, there shall be no order as to costs.

Dated 10th May, 1974.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 1114, dated 17th May, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 4578-4Lab-74/17830.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workman and the management of M/s. Hindustan Dowidat Tools Ltd. Jatheri, Sonepat.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 49 of 1972

between

SHRI NARAIN SINGH AND THE MANAGEMENT OF M/S HINDUSTAN DOWIDAT TOOLS LTD., JATHERI (SONEPAT).

Present.—

Shri M. S. Rathi, for the workman.

Shri C. M. Lal, for the management.

AWARD

Shri Narain Singh concerned workman was in the service of M/s Hindustan Dowidat Tools Ltd, Jatheri (Sonepat) at Rs 85 P.M. The management terminated his services w.e.f. 27th October, 1971. Feeling aggrieved he raised a demand for reinstatement with the allegations that he was in permanent service as a Helper and the termination of his services had been brought about without any notice, charge-sheet etc., and as such it was illegal and without justification. There was no satisfactory response from the management. The matter was taken up for conciliation by means of demand notice, dated 6th November, 1971 which, however, ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this court, in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID/BK/64-A-71/4255, dated 7th February, 1972, with the following term of reference.—

“Whether the termination of services of Shri Narain Singh was justified and in order ? If not, to what relief is he entitled ?”

Usual notices were given to the parties and they put in their respective pleadings. The management contested the claim of the workman on merits pleading *inter alia* that he was only a learner and not a permanent worker and as such his services had been rightly terminated since his work was not found to be satisfactory. In his replication, Shri Narain Singh controverted the above allegations of the management and further urged that, as a matter of fact, he was employed as a Helper against a permanent post and his services had been terminated as an act of victimisation and unfair labour practice. It was further stated that persons junior to him were retained in service and even some new hands were recruited after his termination.

The pleadings of the parties gave rise to the following two issues :—

1. Whether Shri Narain Singh, concerned workman was only a learner and not a permanent worker? If so, with what effect?
2. Whether the termination of services of Shri Narain Singh was justified and in order? If not, to what relief is he entitled?

The management has examined two witnesses, namely Shri A.L. Malik, Foreman, M.W. 1 and Shri U.C. Pant, Personnel Officer, M.W. 2. The documents on which reliance has been placed on behalf of the management include the report Exhibit M.W. 1/1 of the Foreman Shri A.L. Malik that the progress of Shri Narain Singh was not satisfactory and he was an unwilling worker, copy of the settlement, dated 29th September, 1971 Exhibit M.W. 2/1, statement showing fall in the total strength of Machine Shop M.W. 2/2, copy of the Certified Standing Orders of the Company Exhibit M.W. 2/3, charts prepared from the attendance registers Exhibits M.W. 2/4, M.W. 2/5 and attendance cards of the workman marked Exhibits M. 1 to M. 4.

The workman has made his own statement beside examining three other co-workers, namely, S/Shri Gopi Ram, Mohinder Singh and Jal Singh. The sum and substance of their depositions is that Shri Narain Singh was working as a Helper and not as Learner and that there was no system of appointing Learners or Trainees in the establishment.

Arguments have been addressed on both sides and I have given a very thoughtful consideration to the material on record.

The first and the foremost question that arises for consideration is whether the present workman was engaged as a Learner or Trainee as alleged by the management or he has joined service in this establishment as a regular Helper as contended by him. No letter of appointment has been brought on record which might throw light on the point of issue. However, there is some other sufficient documentary evidence which conclusively proves that he was only a Trainee or a Learner. In the Attendance and payment of wages Registers extracts whereof are Exhibits M. 2/4 and M.W. 2/5, he has been shown as a Trainee. The same is the position in the attendance cards of the workman Exhibits M. 1 to M.4. wherein also he has been shown as Trainee (Tr.) No reasonable rebuttal of this evidence has been produced by the worker nor is there anything to indicate that this is a false and fabricated record. Shri Gopi Ram W.W. 2 and Shri Jal Singh W.W. 4 have admitted that after obtaining training the workers get 'C' Cards. In view of this it cannot be said that there was no system of appointing Trainees or Learners in this establishment, and that being so, the statements made by Shri A.L. Malik, Foreman, M.W. 1 and Shri U.C. Pant, Personnel Officer, M.W. 2 read with the documentary evidence referred to above, have to be believed and in view of this evidence, oral as well as documentary there can be no manner of doubt in holding that Shri Narain Singh was appointed as a Learner or Trainee and not as a regular Helper as contended by him. Issue No. 1 is accordingly decided against him and in favour of the management.

Issue No. 2. -In view of the above finding on issue No. 1, there is not much to discuss with regard to this issue. As made out from the progress report of the workman, Exhibit M.W. 1/1 made by the Foreman, his work was not satisfactory and he was not found to be a willing worker. In the circumstances, the management was under no obligation to retain in service the present claimant who was engaged only as a Learner or as a Trainee. The learned representative of the workman has not been able to satisfy me to the contrary. Issue No. 2, is, therefore, decided in favour of the management and against the workman.

So, taking into consideration the facts of the case, my findings on the issues involved and the reasons aforesaid, I do not find anything wrong with the termination of the services of the workman which is held to be justified and in order and, in the result, he is not entitled to any relief by way of reinstatement or payment of back dues. The award is made accordingly. There shall be no order as to costs.

The 16th May, 1974

O. P. SHARMA,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1127, dated the 18th May, 1974

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

S. N. BHANOT,
Commissioner for Labour and Employment &
Secretary to the State Commission for
Backlog Cases.